IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 15243 of 2004
Date of decision: 11.12. 2006

Gram Panchayat Village Gura .....Petitioner

Versus

Joint Development Commissioners and Ors. .....Respondents

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. Harsh Bunger,Advocate
for the petitioner

Mr. C.M. Munjal, Sr. Addl. A.G. Pb.
for the State

Mr. N.P. S. Mann, Advocate
for respondent No. 3

ASHUTOSH MOHUNTA, J (Oral)

The petitioner has impugned the order dated 22.07.2004 (Annexure P-8) passed by the Joint Development Commissioner (IRD), Punjab-respondent No. 1, by which respondent No. 3 (Dara Ram) has been allowed to purchase the land belonging to the Gram Panchayat.

Respondent No. 3 filed a petition under Section 11(2) of the Punjab Village Common Lands (Regulation) Act, 1961, for declaration of his ownership/title qua the land in dispute. His said petition was dismissed by the Collector, Panchayats Land, Jalandhar and Amritsar, vide order dated 28.04.2003 (Annexure P-5). In appeal, although he was not declared to be the owner, but the Commissioner, vide order dated 22.07.2004 (Annexure P-8) permitted him to purchase the suit land at the market value, that is @

Rs.10,000/-(Rupees Ten Thousand only) per marla.

Learned counsel for the petitioner states that such a direction for purchase of land cannot be given in view of the judgment passed in *Gram Panchayat, Khanpur Versus Joint Development Commissioner, IRD, Punjab* 1998(1) RCR (Civil) 290 , wherein it has been held that the Assistant Commissioner or any other authority has no jurisdiction to order charging of price of common land from the unauthorized occupants, except that the Panchayat can allow the persons in possession of such land since prior to 1950 and construction has been raised before enforcement of the 1961 Act. It is contended by the learned counsel for the petitioner that the petitioner was in possession of the suit land prior to 1950. Learned counsel for the petitioner also stated that the Gram Panchayat has already taken possession of the suit land as per the report of the Naib Tehsildar, Goraya

In view of the above, we allow the writ petition and set aside aside the order dated 22.07.2004 (Annexure P-8) passed by the Joint Development Commissioner (IRD) (exercising the powers of Commissioner). The order dated 28.04.2003 (Annexure P-5) passed by the Collector is hereby upheld and restored.

(ASHUTOSH MOHUNTA)
JUDGE

(NIRMAL YADAV)
JUDGE

December 11, 2006
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